

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT WARD GARRISON,

Plaintiff,

V.

WASHINGTON STATE DEPARTMENT OF  
CORRECTIONS, *et al.*,

## Defendants.

Case No. C05-5837 FDB

## ORDER ADOPTING REPORT AND RECOMMENDATION DISMISSING PLAINTIFF'S CLAIMS

This matter comes before the Court on the Report and Recommendation of the Magistrate Judge that Defendants' motion for summary judgment seeking dismissal of Plaintiff's 42 U.S.C. § 1983 action be granted. As detailed by the Magistrate Judge, the Court does not have jurisdiction over Captain Tauscher and the Doe Defendants and thus, the claims against these Defendants should be dismissed. Although the claims against the remaining were timely filed, the approved vendor policy is reasonably related to legitimate penological interests and meets First Amendment scrutiny. Nor has Plaintiff established an Eighth Amendment claim regarding the conditions of confinement (unsanitary cell conditions and denial of food and medical care), as Defendants' response to Plaintiff's behavior was a reasonable response to safety concerns created by Plaintiff. Plaintiff has also failed to support a claim of denial of access to the courts. Plaintiff's claims of Fifth and Fourteenth Amendment violations are not supported by facts, but consist of mere conclusionary allegations, and are subject to dismissal. Finally, the Eleventh Amendment bars suit against state agencies, to wit: the Washington State Department of Corrections (DOC) and the Washington Corrections Center (WCC).

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1 The Court, having reviewed the Report and Recommendation of Magistrate Judge  
2 Karen L. Strombom, Objections to the Report and Recommendation, and the remaining record, does  
3 hereby find and ORDER:

- 4 (1) The Court adopts the Report and Recommendation;

5 (2) Defendants' motion for summary judgment [Dkt # 97] is **GRANTED**;

6 (3) Plaintiff's claims against Defendant Tascher are **DISMISSED WITHOUT**

7 **PREJUDICE**;

8 (4) Plaintiff's claims against the remaining Defendants are **DISMISSED WITH**

9 **PREJUDICE**; and

10 (5) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants

11 and to the Hon. Karen L. Strombom.

DATED this 25<sup>th</sup> day of February, 2008.

  
FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE

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